IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14675 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 14675 of 2003

MS RUKHSANA M PATHAN for Petitioner No. 1

MS NANDINI JOSHI A.G.P. for Respondent No. 1-2

RULE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 21/09/2004

ORAL JUDGEMENT

1. RULE. Ms. Nandini Joshi learned A.G.P. waives service of rule on behalf of the respondents. With the

consent of the parties the matter is taken up for final hearing today.

1.1. The petitioner by way of this petition has challenged the judgment and order dated 2nd August, 2002, passed by the State Government, whereby respondent no. 1 while rejecting the application has confirmed the order of the District Magistrate, Banaskantha dated 24th January, 2001.

2. The short facts of the case as they emerge from the record of the petition are that the petitioner had applied for license for fire arm for self protection on 4th February, 1999. It is the case of the petitioner that though all the reasons were stated in the application for issuing firearm license, respondent no. 2 by order dated 7th June, 1999 had rejected the application without recording any reasons.

2.1. Being aggrieved by the said order, the petitioner preferred appeal before respondent no. 1 under Section 18 of the Arms Act. It is the case of the petitioner that respondent no. 1 vide order dated 14th September, 2000 partly allowed the appeal and remanded the matter to consider afresh. In view of that the petitioner again approached respondent no. 2 stating the circumstances for need of fire arm license. However, respondent no. 2 rejected the permission for license vide order dated 24th January, 2001.

2.2. Being aggrieved by order dated 24th January, 2001, the petitioner preferred an Appeal being Appeal no. 104 before respondent no. 2. However, respondent no.1 without assigning any reasons vide order dated 2nd August, 2002 dismissed the appeal and confirmed the order dated 24th January, 2001 passed by respondent no. 2. Hence, this petition.

3.0. Ms. Rukhsana Pathan learned advocate for the petitioner submitted that looking to the situation of the farm of the petitioner, and more particularly, pursuant to the Government guidelines, at annexure-H to the petition, wherein categories of persons eligible for license of fire arm is given, the petitioner is required to be given license for firearm.

3.1. Ms. Pathan further submitted that in view of the changed circumstances, if the respondent authority is directed to reconsider the application of the petitioner, ends of justice will be served.

3.2. Looking to the peculiar facts and circumstances of the case, I find force in the submission of the learned advocate for the petitioner. Under the changed circumstances it would be proper if the petitioner makes an application to respondent no. 2.

4. Accordingly, if the petitioner makes an application to respondent no.2, the respondent authority shall consider the same afresh, in view of the guidelines issued by the State Government and also in view of the provisions of Arms Act and Rules and also without being influenced by the fact that the present petition is rejected on merits.

5. Subject to the above observations, the petition is rejected. Rule is discharged to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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